

DUNCAN MILLER

IBLA 74-240

Decided August 15, 1974

Appeal from a decision of the Montana State Office, Bureau of Land Management, requiring consent to a stipulation for oil and gas lease offer M-27076.

Affirmed.

Oil and Gas Leases: Generally—Oil and Gas Leases: Applications: Generally—Oil and Gas Leases: Stipulations

As a condition precedent to the issuance of an oil and gas lease, the Department of the Interior may require an applicant to accept a stipulation precluding surface occupancy of the land in order to protect the scenic and recreational values of the land within a state park.

APPEARANCES: Duncan Miller, pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Duncan Miller's entry card for Parcel 22 in a December 1973 drawing for simultaneously-filed oil and gas lease offers drew first priority. Parcel 22 having 320 acres, is the E 1/2 of sec. 12, T. 15 N., R. 55 E., P.M.M. The parcel is also subject to Recreation and Public Purposes lease M-021267 for Makoshika State Park.

On March 8, 1974, the Montana State Office, Bureau of Land Management (BLM), decided that the lease could be issued subject to a special stipulation to protect the land within the park by precluding occupancy of the surface of the lands to be leased. The stipulation requires the lessee to agree that no surface disturbance activities will be conducted on the land in order to preserve scenic and recreation values.

Appellant states in his appeal:

The requirements of preserving the scenic and recreational values of this land are inconsistent with its location and type of land; most scenic and recreational values are in the western part of the state; there is very little scenic and recreational values about 15 N, Range 55 E in Montana. Moreover the population density attributable to the area to the extent of enjoying any scenic and recreational values is minimal. Those who would want to enjoy any scenic and recreational values would come from afar and they would not stop in this particular area when so much better scenic and recreational areas are open to them in the said western part of the State.

He requests that the stipulation be reviewed and overruled. Appellant has offered no information to support his assertions nor has he shown that the stipulation is unreasonable or improper in the circumstances here where the land is within a State park and protection of the scenic and recreational resources of the land is desired.

Special stipulations may be required by this Department as are necessary for the protection of lands to be leased for oil and gas. 43 CFR 3109.2-1. A stipulation that a lessee must agree not to occupy the surface of specific areas which have recreational, watershed, or aesthetic values may be required as a condition precedent to issuance of a lease. Quantex Corp., 4 IBLA 31, 34, 78 I.D. 317, 318-19 (1971). Appellant has not shown in any way that the surface occupancy restriction is improper in the circumstances of this case. Cf. A. Helander, 15 IBLA 107, 110-11 (1974). Despite his assertions, neither the existence of other recreational areas in the State of Montana nor the low population density of the area diminishes the need for protection of the scenic and recreational values of this tract within the park. The decision requiring the stipulation was correct. See Duncan Miller, 16 IBLA 24 (1974).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision is affirmed. Miller is allowed 15 days from the date of this decision within which to submit to the Montana State Office of the Bureau of Land Management executed copies of the required stipulations, failing in which his offer will stand as rejected without further notice.

Joan B. Thompson
Administrative Judge

We concur.

Douglas E. Henriques
Administrative Judge

Frederick Fishman
Administrative Judge

